

DECISION OF THE MANAGEMENT BOARD OF EUROPOL

of 4 June 2009

establishing the rules on the selection, extension of the term of office and dismissal of the Director and Deputy Directors of Europol

(2009/1011/JHA)

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to Council Decision establishing the European Police Office (EUROPOL) of 6 April 2009⁽¹⁾ (hereinafter referred to as the Europol Decision) and in particular Articles 37(9)(g), 38(1), 38(2), 38(3), 38(7) and 39 thereof,

Having regard to the Staff Regulations of Officials of the European Communities (hereinafter referred to as the Staff Regulations) and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as the Conditions of employment) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68⁽²⁾,

Having regard to Article 12 of the Conditions of employment concerning the conditions of engagement of temporary staff and to Chapter 9 of Title II of the Conditions of employment on the termination of employment of temporary staff,

Having regard to Commission Decision SEC(2009) 27/2 of 12 January 2009 containing Guidelines on the selection and appointment of directors of regulatory agencies, executive agencies and joint undertakings,

Having regard to the Management Board rules of procedure,

Whereas:

- (1) It is for the Management Board to establish the rules applicable to the selection, extension of the term of office and dismissal of the Europol Director and Deputy Directors to be approved by the Council, acting by qualified majority, before their entry into force.
- (2) The Director and Deputy Directors should be selected through an objective and transparent procedure without prejudice to the confidentiality of the proceedings and the protection of personal data processed for the purpose of selection procedures.
- (3) It is desirable to adopt procedures analogous to those set out in the Commission Decision SEC(2009) 27/2 of 12 January 2009.
- (4) The aim of selection procedures is to identify the best qualified candidates for the post to be filled.

(5) Europol is an equal opportunities employer,

HAS ESTABLISHED THE FOLLOWING RULES:

CHAPTER 1

GENERAL PROVISIONS

Article 1

1. These Rules shall apply to the selection, extension of the term of office and dismissal of the Director and Deputy Directors as referred to in Article 38 of the Europol Decision.
2. Where the Director is temporarily unable to exercise the functions of his office for a period of more than one month, or where the position of Director is vacant, his functions shall be exercised by a Deputy Director. For this purpose the Management Board shall indicate the order of replacement.
3. Any reference in these Rules to a person of the male sex shall be deemed also to constitute a reference to the female sex, and vice-versa, unless the context clearly indicates otherwise.

CHAPTER 2

SELECTION PROCEDURES

Article 2

The selection procedure shall observe the principles enshrined in Article 12(1) of the Conditions of employment.

Article 3

1. The post of the Director or of a Deputy Director is deemed vacant:
 - (a) as from nine months before the end of their respective term of office,
 - (b) upon receipt by the Council of a letter of resignation,
 - (c) upon a decision by the Council to dismiss the Director or a Deputy Director or otherwise terminate their service in accordance with Chapter 4 of these Rules,
 - (d) as from nine months before the date on which the Director or a Deputy Director reaches the age of 65, or
 - (e) upon the death of the Director or a Deputy Director.

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

⁽²⁾ OJ L 56, 4.3.1968, p. 1.

2. For each vacant post, a vacancy notice shall be drawn up by the Management Board. For the post of a Deputy Director, the vacancy notice is drawn up by the Management Board after having consulted the Director.

The vacancy notice sets out in clear and detailed terms the following elements:

- (a) a general description of Europol's tasks and mission as laid down in the Europol Decision,
 - (b) a description of the main functions and duties of the Director or Deputy Director, as the case may be, with appropriate references to the relevant provisions of the Europol Decision,
 - (c) the eligibility criteria that have to be fulfilled by every candidate,
 - (d) the profile for the post including any attributes that are considered relevant to the function and which are subsequently used as selection criteria,
 - (e) an overview of the selection and appointment procedure,
 - (f) the terms and conditions of employment including the grade at recruitment, the nature of the contract offered and the duration of the term of office,
 - (g) the modalities and closing date for submitting applications.
3. The selection process shall include an assessment to test specific competencies and skills of candidates.

The Management Board shall specify the characteristics and modalities of the assessment for each vacant post and may decide to have recourse to an external assessment centre.

4. The vacancy notice shall further indicate that candidates must submit their applications in writing, accompanied by a detailed curriculum vitae, a letter of motivation and the appropriate character references as to their suitability for the performance of the duties pertaining to the vacant post, to the Chairperson of the Management Board within six weeks of the date of publication of the vacancy notice in the *Official Journal of the European Union*.

The vacancy notice shall also provide information on the security screening to be applied to the successful candidate in compliance with the rules adopted pursuant to Article 40 of the Europol Decision.

Article 4

1. The Management Board shall ensure that the vacancy notice referred to in Article 3(2) is published in the *Official Journal of the European Union*, and in other media, including national newspapers and specialised periodicals, to achieve maximum exposure in all the Member States.

2. Europol shall inform the Europol national units of a vacancy for a post of Director or Deputy Director. The national units shall inform the relevant competent authorities of the Member States of the vacancy. The competent authorities shall be responsible for ensuring that the vacancy is brought to the attention of their departments and all the personnel concerned.

3. Europol shall send an acknowledgement of receipt to the applicants.

Article 5

1. The Management Board shall set up a selection committee (hereinafter referred to as the Committee) which shall assess the applications received and draw up a reasoned report to be submitted to the Management Board in accordance with Article 6 of these Rules.

2. For the post of Director, the Committee shall be composed of the member of the Management Board representing the Commission and of six Management Board members representing the Member States who shall be determined by the drawing of lots by the Management Board.

3. For the post of a Deputy Director, the Committee shall be composed of the Director, or a Deputy Director delegated by him, of the member of the Management Board representing the Commission and of five Management Board members representing the Member States who shall be determined by the drawing of lots by the Management Board.

4. If a member of the Management Board designated pursuant to paragraphs 2 and 3 cannot participate in the work of the Committee, he shall be replaced by the alternate member of the Management Board representing the Commission or the Member State in question as the case may be.

5. Where there is reason to believe that a member of the Committee has a personal relationship with one of the candidates or where any other potential conflict of interest could arise, he shall not participate in the work of the Committee and shall be replaced by the alternate member in accordance with paragraph 4.

6. The secretariat of the Management Board shall provide the secretariat of the Committee.

Article 6

1. At its first meeting, the Committee shall choose a chairman from among its members.

2. The Committee may be assisted by an external human resources consultant for the performance of its tasks if so decided by the Management Board at its own initiative or upon request from the Committee. The external human resources consultant shall not have the status of member of the Committee.

3. The tasks of the Committee shall include:

(a) identifying all candidates who, on the basis of the criteria set out in the vacancy notice, are eligible for the post,

(b) making an initial assessment of the applications of eligible candidates taking into account their professional qualifications, skills, experience and character references in order to decide which ones should be further assessed by the Committee,

(c) organising an assessment of candidates in accordance with Article 3(3) of these Rules,

(d) interviewing candidates with a view to assessing their qualifications and skills against the criteria set out in the vacancy notice, and

(e) drawing up a duly reasoned report on the applications received and the procedure followed by it including:

(i) the list of eligible candidates indicating among them those interviewed by the Committee,

(ii) a list of candidates, ranked in order of merit, who meet all the eligibility criteria and are considered to match best the selection criteria set out in the vacancy notice.

4. The work of the Committee shall be fully documented notably by using evaluation sheets established in accordance with the criteria set out in the vacancy notice and any additional guidelines received from the Management Board. The evaluation sheets and a summary of the overall conclusions of the Committee on each candidate shall be added to the application files.

5. The results of any work carried out on behalf of the Committee by its secretariat, by one or more of its members or by an external human resources consultant shall be submitted to the full Committee for its review and endorsement.

6. The decision of the Committee establishing the report shall be signed by its chairman and another member of the Committee.

7. The chairman of the Committee shall forward to the Management Board, as soon as possible after the interviews have been held, the report drawn up by the Committee as well as the full application file of interviewed candidates.

Article 7

Candidates not retained by the Committee shall, after each stage of the selection, be informed in writing by the secretariat of the Committee of the outcome of the procedure.

Article 8

1. The proceedings of the Committee shall be held in The Hague unless otherwise decided by the Management Board.

2. Travel and subsistence expenses, including hotel accommodation, shall be reimbursed to the members of the Committee and to candidates invited to the tests and interviews in accordance with the applicable rules.

Article 9

1. The Management Board shall invite the chairman of the Committee to explain the procedure carried out and present the report of the Committee.

2. The Management Board may decide to interview the candidates on the ranked list of the Committee and any other eligible candidate interviewed by it.

3. On the basis of the report submitted by the Committee and, where applicable, the results of the interviews held in accordance with paragraph 2, the Management Board shall adopt a reasoned opinion:

(a) presenting the list of eligible candidates,

(b) setting out a shortlist of at least three suitable candidates ranked in order of merit, and

(c) confirming that the applicants on the shortlist meet the conditions for engagement provided for in Article 12(2) of the Conditions of employment and all the eligibility criteria set out in the vacancy notice.

4. If a member of the Management Board is also on the list of candidates, or where any other potential conflict of interests could arise, he shall not be present when the opinion of the Management Board is drawn up.

5. The Chairperson of the Management Board shall forward the opinion of the Management Board and the full application file of each of the shortlisted candidates to the Council to enable the latter to take its decision as foreseen in Article 38 of the Europol Decision on the basis of all relevant information.

6. Candidates not retained by the Management Board shall be informed, in writing, by the secretariat of the Management Board of the outcome of the procedure.

Article 10

Once the appointment has been made by the Council, every candidate who applied for the post shall receive a formal notification of the outcome of the procedure from the secretariat of the Management Board. The three-month time limit for lodging a complaint pursuant to Article 90 of the Staff Regulations shall run from the date of notification of this letter.

Article 11

1. The proceedings of the Committee and of the Management Board shall be secret.

2. Members of the Committee as well as members of the Management Board and any Europol staff, personnel of any external assessment centre or external human resources consultant involved in the selection procedure shall maintain the strictest confidentiality with regard to the work carried out.

CHAPTER 3

TERM EXTENSION

Article 12

1. Where the terms of office of the Director or a Deputy Director appointed under Article 38 of the Europol Decision can be extended in accordance with Articles 38(1) or 38(2) of the Europol Decision, the Management Board may decide to derogate from the procedure established in Chapter 2. In such cases the Management Board shall draw up, at the latest twelve months before the term of office ends, an opinion advising the Council to extend the term of office. The opinion of the Management Board shall notably take into account the results achieved by the Director or Deputy Director concerned during the first term, the annual performance appraisal reports drawn up in accordance with Article 15(2) of the Conditions of employment and the mission and needs of Europol in the coming years.

The opinion of the Management Board advising to extend the term of office of a Deputy Director shall be delivered after having consulted the Director.

2. The procedure laid down in Chapter 2 shall be followed when the Management Board decides not to derogate from it,

when the Council decides not to extend the term of office of the Director or the Deputy Director concerned or when the Council fails to take a decision in this respect within three months after the receipt of the Management Board opinion.

CHAPTER 4

TERMINATION OF SERVICE

Article 13

1. Apart from cessation on death, the service of the Director or a Deputy Director shall cease, in accordance with Article 47(a) of the Conditions of employment, at the end of the month in which the person concerned reaches the age of 65 years.

2. The termination of service of the Director or a Deputy Director shall be decided upon by the Council, acting by qualified majority after obtaining the opinion of the Management Board, in accordance with Articles 15 and 17 of these Rules.

3. The opinion of the Management Board on the termination of service of a Deputy Director shall be drawn up after having consulted the Director.

Article 14

1. A Director or Deputy Director who wishes to resign before the end of his term of office shall state unequivocally in writing his intention to leave the service of Europol, proposing the date on which his resignation should take effect in accordance with Article 47(b)(ii) of the Conditions of employment.

2. The letter of resignation shall be addressed to the President of the Council, with a copy to the Chairperson of the Management Board and to the Director in the case of a resignation of a Deputy Director.

Article 15

1. Upon request of the Management Board, the service of the Director or a Deputy Director may be terminated by the Council pursuant to Article 47(b) of the Conditions of employment subject to observing the period of notice and other conditions referred to in subpoint (ii) or in subpoint (iii) of the said Article.

2. The service of the Director or a Deputy Director may be terminated without notice by the Council upon request of the Management Board, where the conditions referred to in Article 48(a) or (b) of the Conditions of employment are met.

3. The service of the Director or a Deputy Director shall be terminated without notice by the Council where the conditions referred to in Article 50 of the Conditions of employment are met. In such cases the Council shall, after hearing the person concerned, and after the disciplinary procedure referred to in Article 16(2) of these Rules has been followed, declare that his employment is terminated.

Before their employment is terminated, the Director or the Deputy Director concerned may be suspended, the former by the Management Board and the latter by the Director, in accordance with Article 50(2) of the Conditions of employment and Articles 23 and 24 of Annex IX to the Staff Regulations.

Article 16

1. Any intentional or negligent failure by the Director or a Deputy Director to comply with his obligations under the Europol Decision or the Conditions of employment shall render him liable to disciplinary action in accordance with Article 50a of the Conditions of employment, Title VI of the Staff Regulations and where applicable Annex IX to the Staff Regulations.

Such a failure shall, *inter alia*, include the proven deliberate furnishing of false information as to either his professional ability or the requirements of Article 12(2) of the Conditions of employment, where the false information furnished was a determining factor in his being engaged.

2. Disciplinary proceedings shall be initiated and take place in accordance with Annex IX to the Staff Regulations.

Article 17

1. After the disciplinary procedure provided for in Annex IX to the Staff Regulations has been followed, the service of the Director or of a Deputy Director may be terminated by the Council without notice on disciplinary grounds, in accordance with Article 49 of the Conditions of employment, in serious cases of intentional or negligent failure of the Director or a Deputy Director to comply with his obligations.

Before their employment is terminated, the Director or the Deputy Director concerned may be suspended, the former by the Management Board and the latter by the Director, in accordance with Article 50(2) of the Conditions of employment and Articles 23 and 24 of Annex IX to the Staff Regulations.

2. Upon receipt of the report from the Disciplinary Board referred to in Article 18 of Annex IX to the Staff Regulations, the Management Board shall decide whether an opinion is to be submitted to the Council with a view to terminate the service of the Director in accordance with Article 38(7) of the Europol Decision. In such cases, the Management Board shall deliver, within one month of the date of receipt of the report of the Disciplinary Board, a duly reasoned opinion as regards the

penalty to which the facts complained of should give rise to or any other measure that should be taken by the Council in accordance with these Rules. Before drawing up its opinion the Management Board shall give the Director the opportunity to be heard. The Chairperson of the Management Board shall forward the opinion of the Management Board to the Council as envisaged by Article 38(7) of the Europol Decision, and a copy thereof to the Director charged.

Should the Management Board decide that no opinion is to be submitted to the Council in accordance with Article 38(7) of the Europol Decision, it shall have the right to impose one of the penalties foreseen in Article 9(1) of Annex IX to the Staff Regulations other than the removal of the Director from his post. After hearing the Director, the Management Board shall take its decision as provided for in Articles 9 and 10 of Annex IX to the Staff Regulations, within two months of the date of receipt of the opinion of the Disciplinary Board. Reasons must be given for the decision.

3. Upon receipt of the report from the Disciplinary Board referred to in Article 18 of Annex IX to the Staff Regulations, the Director shall, without undue delay, submit to the Management Board a duly reasoned draft opinion as regards the penalty to which the facts complained of should give rise to or any other measure that should be taken by the Council in respect of a Deputy Director in accordance with these Rules.

The Management Board shall decide whether an opinion is to be submitted to the Council with a view to terminate the service of the Deputy Director concerned in accordance with Article 38(7) of the Europol Decision. Before drawing up its opinion the Management Board shall give the Deputy Director concerned the opportunity to be heard. The opinion of the Management Board shall be delivered within one month of the date of receipt by the Director of the report of the Disciplinary Board. The Chairperson of the Management Board shall forward the opinion of the Management Board to the Council as envisaged by Article 38(7) of the Europol Decision, and a copy thereof to the Deputy Director charged.

Should the Management Board decide that no opinion is to be submitted to the Council in accordance with Article 38(7) of the Europol Decision, the Director shall have the right to impose one of the penalties foreseen in Article 9(1) of Annex IX to the Staff Regulations other than the removal of the Deputy Director concerned from his post. After hearing the Deputy Director concerned, the Director shall take his decision as provided for in Articles 9 and 10 of Annex IX to the Staff Regulations, within two months of the date of receipt of the opinion of the Disciplinary Board. Reasons must be given for the decision.

4. Upon receipt of an opinion of the Management Board, as referred to in paragraphs 2 or 3 of this Article, the Council shall, after having heard the Director or Deputy Director concerned, decide whether to remove the Director or a Deputy Director from his post in accordance with Article 9(1)(h) of Annex IX to the Staff Regulations or otherwise terminate his service at Europol.

Should the Council decide to remove the Director or a Deputy Director from his post or otherwise terminate his service, it shall indicate in its decision the precise nature of the measure as well as the date from which the measure is to be applied. The decision shall be duly reasoned and shall be notified to the person concerned and to Europol.

A decision of the Council to remove the Director or a Deputy Director from his post pursuant to Article 9 of Annex IX to the Staff Regulations shall be taken within two months of the date of receipt of the opinion of the Disciplinary Board referred to in Article 18 of Annex IX to the Staff Regulations.

5. Should the Council decide not to remove the Director or Deputy Director concerned from his post in accordance with Article 9(1)(h) of Annex IX to the Staff Regulations or otherwise terminate his service at Europol, the matter shall be referred back to the Management Board in the case of the Director or to the Management Board and to the Director in the case of a Deputy Director.

If the case of the Director is referred back to the Management Board, it shall have the right to impose one of the penalties foreseen in Article 9(1) of Annex IX to the Staff Regulations other than the removal of the Director from his post. After hearing the Director, the Management Board shall take its decision without undue delay. Reasons must be given for the decision.

If the case of a Deputy Director is referred back to the Management Board and to the Director, the latter shall have the right to impose one of the penalties foreseen in Article 9(1)

of Annex IX to the Staff Regulations other than the removal of the Deputy Director from his post. After hearing the Deputy Director concerned, the Director shall take his decision without undue delay. Reasons must be given for the decision.

CHAPTER 5

FINAL PROVISIONS

Article 18

1. These Rules shall enter into force on the same day as the date of application of the Europol Decision.
2. Within three years following their entry into force, these Rules shall be evaluated by the Management Board.
3. Any proposal for amendments to these Rules shall be considered by the Management Board with a view to their adoption by the Council in accordance with the procedure provided for in Articles 38(3) and 38(7) of the Europol Decision.

The Hague, 4 June 2009.

Approved by the Council on 30 November 2009.

The President
S. CLERTON
